

ORIGINAL

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

4

PLAINTIFF,

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-against-

Case No:  
10-CIV-6005

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THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL  
MARINO, Tax id. 873220, Individually and in  
8 his official capacity, ASSISTANT CHIEF  
PATROL BOROUGH BROOKLYN NORTH GERALD  
9 NELSON, Tax id. 912370, Individually and in  
his Official Capacity, DEPUTY INSPECTOR  
10 STEVEN MAURIELLO, Tax Id. 895117,  
Individually and in his official Capacity,  
11 CAPTAIN THEODORE LAUTERBORN, Tax Id.  
897840, Individually and in his Official  
12 Capacity, LIEUTENANT JOSEPH GEOFF, Tax Id.  
894025, Individually and in his Official  
13 Capacity, Sgt. Frederick Sawyer, Shield No.  
2576, Individually and in his Official  
14 Capacity, SERGEANT KURT DUNCAN, Shield No.  
2483, Individually and in his Official  
15 Capacity, LIEUTENANT TIMOTHY CAUGHEY, Tax  
Id. 885374, Individually and in his  
16 Official Capacity, SERGEANT SHANTEL JAMES,  
Shield No. 3004, and P.O.'s "JOHN DOE"  
17 1-50, Individually and in their Official  
Capacity (the name John Doe being  
18 fictitious, as the true names are presently  
unknown) (collectively referred to as "NYPD  
19 defendants")  
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Date: September 23, 2014

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Time: 9:24 A.M.

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(DEPOSITION OF ROY LUBIT, M.D., Ph.D.)

1 R. LUBIT, M.D., Ph.D.

2 Q. Was anybody with you when you  
3 had had interviews with Mr. Schoolcraft?

4 A. No.

5 Q. Did you tape-record the  
6 interview?

7 A. No.

8 Q. Did you videotape the  
9 interview?

10 A. No.

11 Q. When did you first become  
12 involved in this case?

13 A. I would have to check my  
14 billing records.

15 Q. You've written reports like the  
16 one you've given us today before, correct?

17 A. Yes.

18 Q. And you were aware that when  
19 you wrote your report it was to contain a  
20 complete opinion regarding the care and  
21 treatment rendered to Mr. Schoolcraft,  
22 correct?

23 MR. SMITH: Objection to form.

24 A. Yes. Certainly the focus was  
25 going to be whether the admission, whether

1 R. LUBIT, M.D., Ph.D.

2 the commitment was appropriate.

3 Q. But you were aware that the  
4 report was intended to be a complete  
5 rendition of your opinion?

6 MR. SMITH: Objection to form.

7 Q. Right?

8 A. As complete as it could be at  
9 that time. New information becomes  
10 available at points. And my opinion then  
11 can alter if new information becomes  
12 available, which would change that --

13 Q. But at the time, Doctor --  
14 excuse me. At the time you wrote it, it  
15 was intended to be a complete opinion,  
16 correct?

17 MR. SMITH: Objection; asked  
18 and answered and argumentative.

19 You can answer.

20 A. A complete opinion as much as I  
21 could think of the questions that one might  
22 want to ask.

23 There are times when lawyers  
24 ask questions that I hadn't thought that  
25 they would want to ask, and I may have a

1 R. LUBIT, M.D., Ph.D.

2 solid basis for rendering an expert opinion  
3 on that question. Just because I didn't  
4 think of it when I was writing the report  
5 on my own doesn't mean that I can't -- that  
6 I shouldn't be able to have that other  
7 opinion. So I answer as much to my ability  
8 as I thought people might want to know.

9 Q. And when you reviewed the case  
10 were you trying to be objective?

11 A. Yes.

12 Q. And would your report reflect  
13 your objective evaluation?

14 A. Yes.

15 Q. You didn't word it in a way to  
16 help one side?

17 A. I do not intentionally do that.

18 Q. Your intention was to render an  
19 objective report based on your objective  
20 review of everything you told me you  
21 reviewed, correct?

22 A. Yes.

23 Q. Now, you have a bias against  
24 involuntary commitment, don't you?

25 MR. SMITH: Objection to form.

1 R. LUBIT, M.D., Ph.D.

2 A. I wouldn't say that I have a  
3 bias against it. I have a concern. I have  
4 involuntarily committed, in all likelihood,  
5 over a thousand people. Two thousand  
6 people. I have been the expert on the  
7 Plaintiff's side for when hospitals have  
8 failed to commit someone that they should  
9 have, something terrible happened.

10 I think that doctors often do  
11 not take with adequate seriousness at  
12 times, like in this case, I think the  
13 doctors did not take the adequate  
14 seriousness the important -- the impact of  
15 committing someone that there is a very big  
16 negative impact to that that one should  
17 consider and not take it lightly.

18 Q. But you agree that your -- you  
19 use the term anti-paternalism, correct?

20 A. Yes.

21 MR. SMITH: Objection to form.

22 Q. What do you mean by that?

23 A. That to hospitalize someone  
24 against their will according to 9.39,  
25 according to, you know, police and